



Appeal Decision

Site visit made on 29 May 2019

by N Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2019

Appeal Ref: APP/X5210/W/19/3224269

260 Kilburn High Road, London, NW6 2BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Luli Tafasi against the decision of London Borough of Camden.
 - The application Ref 2018/3574/P, dated 30 July 2018, was refused by notice dated 21 February 2019.
 - The development proposed is retrospective change of use from A1 to A3 and alterations to shop front.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. I have amended the description of the development from that set out on the planning application form to include reference to the altered shop front, which also forms part of the appeal development.

Main Issues

3. The main issues are:
 - Whether the use of the site as a restaurant is acceptable, with regard to the vitality and viability of the area; and
 - Whether the design of the development is acceptable, with regard to the character and appearance of the area, potential anti-social behaviour and access arrangements.

Reasons

The use of the site as a restaurant

4. The appeal site forms part of a terraced building on Kilburn High Road, within an area designated as a Secondary Retail Frontage. The basement level has planning permission as a restaurant. The appeal proposal is to retain a restaurant use at ground floor level and to retain a replacement shopfront, that includes a raised terrace behind railings at the front of the property.
5. The main parties agree that the existing proportion of A1 units within the Frontage is below the 50% described within Appendix 4 to the Camden Local

Plan 2017 (CLP) as minimum. It was clear to me on my visit that the majority of ground floor units in the area around the site are non-retail, commercial uses. The result being that the retail offer for shoppers was less extensive than would be expected in a Secondary Retail Frontage. Conversely, there appeared to me to a fairly broad range of restaurants.

6. Furthermore, the appeal proposal results in a run of three or more non-A1 units in a row, which is an additional indicator of an overconcentration of non-shopping uses. Whilst there is already a restaurant use operating from the basement level of the property, I am satisfied that it is at ground floor, at street level, where that effect would be felt most.
7. That the provision of retail units is already below the minimum requirement makes it more, rather than less important to retain existing retail uses. Whilst I accept that the appeal proposal to retain the restaurant use at ground floor could assist the existing business at the site economically, there is nothing before me to demonstrate that a retail business at the site could not also be successful.
8. Overall, I am satisfied that the appeal development undermines the viability and vitality of the Retail Frontage by further eroding its retail offer for shoppers. Accordingly, I find that there would be a conflict with policies TC2 and TC4 of the CLP which seek, amongst other requirements to promote successful and vibrant centres, including by protecting their character and function.

The design of the development

9. Whilst there is a degree of variety in the design of shopfronts in the area around the site, they are predominantly characterised by their location at the edge of the pavement, with access straight out on to the street. The appeal proposal is different in that the main shopfront is set back behind a raised seating area that is enclosed by railings.
10. It is prominent in the street scene because it is so different to those around it and I do not consider that it relates well to the general character of the area. Whilst a degree of variety can add some visual interest, the design at the appeal site would be substantially different to others along the road, to the detriment of the appearance of the area.
11. The Appellant has described that the original shopfront was of a low quality. Given that it has been replaced, I have not been able to make such an assessment, but in any event, that does not warrant its replacement with a design that would also be unacceptable. Whilst a degree of natural surveillance and vibrancy could be introduced by the new design, that does not outweigh the harm that I have found to the appearance of the area. Accordingly, I find that the proposal would be in conflict with Policy D3 of the CLP, which seeks to ensure that the design of shopfronts is acceptable.
12. The terraced area at the front of the site is accessed by steps. Those with mobility difficulties or people using wheel or push chairs would find it difficult at best to access the restaurant. The Appellant makes reference to a ramp being available. I did not see that on my visit and no details of it are before me. Given the height of the steps and the proximity to the pavement, it may be that a ramp could impede pedestrians using the pavement. In the absence of

evidence to the contrary, I am satisfied that access to the unit would not be inclusive or acceptable. As such, I find that the proposal conflicts with Policy C6 of the CLP, which seeks to secure fair access to facilities throughout the Borough.

13. The Council has also raised concerns as to whether the design of the shopfront could increase the risk of anti-social behaviour. It is not clear to me why that should be the case. The High Road is well lit and heavily used by cars and pedestrians. I see no reason why the decked area would necessarily lead to unlawful behaviour being more prevalent. Accordingly, I am satisfied that the proposal is in accordance with Policy C5 of the CLP, which seeks to promote a safe environment.

Conclusions

14. For the reasons that I have described, this appeal is dismissed.

N Smith

INSPECTOR